

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

John Chinnici, :
 Plaintiff, :
 :
 v. : File No. 1:07-CV-229
 :
Officer Christian Noll, :
 Defendant. :

ORDER
(Paper 37)

Plaintiff John Chinnici, proceeding *pro se*, brings this action claiming that he was assaulted and touched in a sexual manner by defendant Christian Noll. Noll was formerly a Correctional Officer at the Chittenden County Regional Correctional facility. Pending before the Court is Chinnici's second motion for appointment of counsel.

As the Court has explained previously, Chinnici's first task is to show that the claims in his complaint are likely to have some merit. See Hendricks v. Coughlin, 114 F.3d 390, 392 (2d Cir. 1997). The Court will then consider whether he is able to investigate the crucial facts concerning his claim; whether the major proof will come in the form of conflicting evidence that requires cross-examination; whether the legal issues involved are complex; and whether there are special reasons why appointment of counsel would be more likely to lead to a just determination.

Id.

Chinnici's pending motion makes no effort to address the merits of his case. Instead, he alerts the Court that he is

being transferred to a different prison facility for medical reasons. He alleges that, while at this new facility, he will be unable to purchase writing materials or postage. In response, opposing counsel informs the Court that he has been providing Chinnici with return address and stamped envelopes, and that the prison is allowing Chinnici to communicate via email. Consequently, it is not clear that discovery will be hampered by Chinnici's incarceration.

Chinnici's motion for appointment of counsel concedes that factual issues in this case are discrete, and that the case is nearly ready for trial. Accordingly, the Court does not find that the investigative needs of the case require appointed counsel. Moreover, as the Court noted in its prior order, the legal issues raised in the complaint are similar to those raised in many prisoner actions. Beyond these issues, the Court sees no "special reasons why appointment of counsel would be more likely to lead to a just determination." Hendricks, 114 F.3d at 392.

The renewed motion for limited appointment of counsel (Paper 37) is, therefore, DENIED.

Dated at Brattleboro, in the District of Vermont, this 27th day of April, 2009.

/s/ J. Garvan Murtha
J. Garvan Murtha
United States District Judge